

Amendment
Serial No. 09/900,490
Attorney Docket No. 010866

REMARKS

Claims 8-11 and 13-16 are pending in the present application and are rejected. Claims 8-11 and 13-16 are herein amended.

Applicant's Response to Claim Rejections under 35 U.S.C. §112

Claims 8, 11, 13 and 14 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention.

It is the position of the Office Action that claims 8, 11 and 13 are incomplete for omitting essential steps. The Office Action states that these claims have no practical result. In response, Applicants note that the final step of determining whether a maintenance actual result value is larger than maintenance prediction value is a practical result. From this determination, a decision regarding suitable maintenance management may be made without burdening the user or agent. Therefore, Applicants respectfully submit that the claims have a practical result and that no essential step is omitted.

The Office Action rejects claim 8 because no function is specified by the "means." In response, Applicants herein amend the claims to recite "a means for inputting" and "a means for determining."

The Office Action rejects claims 13 and 14 because there is insufficient antecedent basis for the terms "the means," "the maintenance value," and "the dividend." Applicants herein amend the claims in order to provide correct antecedent basis. Additionally, Applicants make

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several other amendments in order to improve the clarity of the claims. Favorable reconsideration is respectfully requested.

Applicants' Response to Claim Rejections under 35 U.S.C. §101

Claim 13 was rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

It is the position of the Office Action that because none of the steps of the method claim require the use of hardware to accomplish the step, the claim is not tangible or is an abstract idea. In response, Applicants respectfully submit that according the "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility," published by the U.S.P.T.O. on October 26, 2005, "[t]he tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus or must operate to change articles or materials to a different state or thing." See page 21 of Guidelines. Because the claimed management system of a machine has a practical application, it is not abstract. Applicants respectfully traverse the rejection.

Applicants' Response to Claim Rejections under 35 U.S.C. §102

Claims 8-11 and 13-16 were rejected under 35 U.S.C. §102(e) as being anticipated by Gonyea (U.S. Patent Application No. 2001/0032109).

It is the position of the Office Action that **Gonyea** discloses the invention as claimed. **Gonyea** discloses a system and method for predicting a maintenance schedule and costs for

performing future service events of a product. In **Gonyea**, a predictor 59 comprising a scheduler 60, a simulator 62 and an aggregator 72 determines the aggregated maintenance schedule and costs based on the product data 30, design constraint data 40, service data 58, risk data 52 and operating conditions data 50. The calculated aggregate maintenance schedule and costs are represented by output 70.

On the other hand, the independent claims recite “a maintenance rank table organized by model that stores a maintenance prediction value with respect to maintenance within a contract term for two or more contract ranks for each of one or more models.” This is clearly illustrated in Figure 9. The model-specific maintenance rank table contains multiple contract ranks (R1, R2, R3, R4) for each model (A, B, C, D, etc.). As discussed at page 25, lines 12-21, the contract rank is divided into several ranks depending on the usage conditions and the operating conditions of the machine. The maintenance predicted value is stored as a sum of predicted expenses to be required to perform maintenance within the operation time under the maintenance contract. In other words, multiple scenarios are presented wherein different usage and operating conditions result in different maintenance expenses. The management system may then utilize these maintenance prediction values to compare with maintenance actual values.

In response to the rejection, Applicants respectfully argue that **Gonyea** does not disclose “a maintenance rank table, organized by model, that stores a maintenance prediction value with respect to a maintenance within a contract term for two or more contract ranks for each of one or more models.” In **Gonyea**, a single prediction is calculated based on the data provided, rather than the multiple prediction values of the maintenance rank table, as illustrated in Figure 9.

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Therefore, the independent claims distinguish over **Gonyea**. Favorable reconsideration is respectfully requested.

Applicants' Response to Claim Rejections under 35 U.S.C. §103

Claims 9, 10 and 14-16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Gonyea.

The Office Action acknowledges that **Gonyea** does not disclose calculating a dividend when the maintenance actual value is lower than the maintenance prediction value and the difference between the maintenance actual value and the maintenance predicted value is higher than a predetermine value. However, the Examiner takes "Official Notice" of the concept and advantage of calculating dividends. Thus, the Office Action argues that it would have been obvious to calculate dividend values such that any surplus value determined can be divided and distributed to the appropriate entity.

With regard to claims 9 and 14, Applicants respectfully challenge the Examiner's taking of "Official Notice" and request that he provide documentary evidence of the facts asserted. Furthermore, it is noted that claims 10, 15 and 16 do not recite calculation of a dividend. Therefore, with regard to claims 10, 15 and 16, Applicants respectfully submit that the Office Action has not established prima facie obviousness. Favorable reconsideration is respectfully requested.

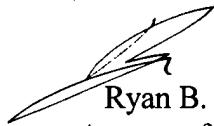
For at least the foregoing reasons, the claimed invention distinguishes over the cited art and defines patentable subject matter. Favorable reconsideration is earnestly solicited.

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Should the Examiner deem that any further action by applicants would be desirable to place the application in condition for allowance, the Examiner is encouraged to telephone applicants' undersigned agent.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
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